

EDWARD J. MARKEY

7TH DISTRICT, MASSACHUSETTS

ENERGY AND COMMERCE COMMITTEE

RANKING MEMBER
SUBCOMMITTEE ON
TELECOMMUNICATIONS AND
THE INTERNET

SELECT COMMITTEE ON
HOMELAND SECURITY

RESOURCES COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515-2107

2108 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-2107
(202) 225-2836

DISTRICT OFFICES:

5 HIGH STREET, SUITE 101
MEDFORD, MA 02155
(781) 396-2900

188 CONCORD STREET, SUITE 102
FRAMINGHAM, MA 01702
(508) 875-2900
www.house.gov/markey

April 1, 2004

The Honorable Tom Ridge
Secretary
Department of Homeland Security
Washington, D.C.

Dear Mr. Secretary:

I am writing to follow up on my letter of March 23, 2004, regarding recent revelations regarding possible Al Qaeda infiltration into the Boston area on liquefied natural gas tankers, and the related possibility of a terrorist threat to the LNG tankers entering into Boston Harbor to dock at the Distrigas LNG facility in Everett, Massachusetts.

Since my last letter, several developments have occurred that have only increased my concern about LNG security both before and after the September 11th attacks. First, I received the last of three responses to letters I had sent to the Department of Transportation, the Department of Energy, and the Federal Energy Regulatory Commission regarding the nature and adequacy of safety studies performed after 9/11 to examine the consequences of a terrorist attack on the Distrigas LNG facility or LNG tankers supplying the facility. Second, I have seen a number of articles in the press which appear to provide conflicting accounts of potential Al Qaeda infiltration into Boston on LNG tanker ships.

For example, spokesmen for the FBI have been quoted in the press as denying that any Al Qaeda operatives entered into the United States on LNG tankers coming to Boston, while simultaneously indicating that at least one Al Qaeda operative involved in the so-called "Millennium" plot had originally entered the country in this manner. Other former senior anti-terrorism officials have told the press that information available to other government agencies – and not the FBI – revealed that Boston LNG tankers were used by several terrorists as a means of entering the country.

This situation appears to cry out for exercise of the intelligence and counter-terrorism coordination and information-sharing functions granted to the Department under the Homeland Security Act (P.L. 107-296). As you know, Title II of the Act established within the Department a Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the key responsibilities of IAIP, as stipulated in Section 201(d)(11), is "To consult with State and local governments and private sector entities to ensure appropriate exchanges of information, including law enforcement-

related information, relating to threats of terrorism against the United States.” Indeed, the intent of Congress in establishing the Department was to create a “one-stop shop” for intelligence and threat information so that this information could be shared efficiently with relevant authorities.

I am therefore writing you again to request the Department’s further assistance in understanding exactly what happened in Everett, so that those who live in and around Boston can have some confidence that the federal government is doing everything possible to track down any terrorists that may have infiltrated into our country on LNG tankers, and to ensure the security of any future LNG shipments to the Distrigas facility, as well as the security of the facility itself.

You may recall that on June 12, 2002 you provided a response to a letter that I had originally handed you on October 30, 2001, and to a personal note I sent you on March 19, 2002 (See enclosures 1, 2, and 3). As you may recall, in my original October 30, 2001 letter I requested your assistance, in your role as the President’s Homeland Security Advisor, in: 1) helping to untangle the jurisdictional jumble of federal agencies with responsibilities over LNG importation facilities; 2) ensuring that security at the Distrigas facility would be strengthened not only when LNG tankers were docked at the facility, but at other times as well; 3) ensuring that appropriate security background checks were conducted of personnel at the facility.

In your June 12, 2002 response you stated: “Our preliminary discussions have revealed that many of the initial responses provided to your questions by the Department of Transportation must be updated in light of additional security measures and precautions implemented in the past several months.” You further indicated that “we will provide that update, as well as a review and response to your original questions presented to my office.” In a handwritten note at the bottom of that letter, you indicated to me that “we will provide the update as quickly as possible.” Unfortunately, I never received the promised update or any responses to my original questions.

Last Monday night, however, I did receive a letter – which was dated February 19, 2004 -- from Transportation Secretary Mineta (see Enclosure 4), which states that the Department’s Research and Special Programs Administration, Office of Pipeline Safety (RSPA’s OPS) “has reviewed our October 26, 2001 response to you on this issue” and that “respectfully, we reaffirm our position in the areas for which you had noted concern.” This raises the following questions:

1. Which of the initial DOT responses provided to the questions I had earlier posed in my September 26, 2001 letter did you believe needed to be updated in light of additional security measures and precautions?
2. Did you or your staff ever prepare the update you promised in your letter of June 12, 2002?
3. If not, why not?

4. If so, why was I never provided a copy of that update?

The aforementioned DOT letter also reports that the Quest Study, which has recently come under criticism for understating the potential consequences of an attack on an LNG tanker in Boston Harbor, was sent to DOE, the U.S. Coast Guard, DOT, and FERC for review, and to "other agencies" for their consideration, and that "the results were used to justify enhanced security for vessels transporting LNG and the onshore LNG storage tanks."

1. Was the Quest study also sent to you in your capacity as Homeland Security Advisor?
2. If so, how did you make use of it?
3. In a January 15, 2004 letter (see Enclosure 5), the Department of Energy indicates that it funded the Quest study, and that this study was used to help inform the activities of an interagency working group formed after 9/11 to respond to a request for assistance from the Commonwealth of Massachusetts in assessing the safety of scheduled deliveries of LNG to Everett. Did you or your office participate in the interagency working group formed after the 9/11 attacks to address the terrorist threat to the Everett LNG facility? If so, please explain what role your office played in post-9/11 security planning and coordination for LNG security in Boston. If not, please explain why not.
4. In light of the questions that have now been raised about the Quest study, and the fact that there are at least three federally-funded LNG safety studies now underway (the DOE-funded Sandia study, the FERC-funded American Bureau of Shipping study, and the NOAA staff study), do you think that the security measures and precautions undertaken with respect to the Distrigas facility need to be reassessed or upgraded? If so, what is being done to accomplish this? If not, why not?
5. In a November 21, 2003 letter (see Enclosure 6), the Federal Energy Regulatory Commission reports that the Quest study "is one of several hazard models that have been used to evaluate the overall safety of proposed LNG importation terminals and expansions at existing sites under FERC jurisdiction." FERC further reports that the results of the Quest study "are reported in the Trunkline LNG Expansion Project Environmental Impact Assessment (July 2002); the Elba Island Expansion Project Assessment (February 2003); the Hackberry LNG Project Draft Environmental Impact Statement (August 2003); and the Freeport LNG Project Draft Environmental Impact Statement (November 2003)." In light of the scientific and technical concerns that have been raised in the press regarding the Quest study, do you believe it appropriate for the Quest study to have been used or cited in the EIS's for new LNG terminals or capacity expansions at existing terminals?
6. What role, if any, does the Department of Homeland Security play in preparing, providing comment on or input into, any consideration of security or terrorism

threats that might be contained in any EIS's performed for new LNG facilities or capacity expansions at existing LNG facilities?

7. Has the Department ever communicated any concerns, questions, or provided any comments on whether any existing or proposed LNG facility might pose an unacceptable risk if targeted by terrorists, or suggested any alternatives with respect to the sighting, design, or security precautions for LNG importation terminals to better protect against acts of terrorism directed against such facilities? If so, please describe.

A number of reports that have appeared in the Boston press in the aftermath of the release of Richard Clarke's book raise additional questions about the nature and extent of Al Qaeda infiltration via LNG tanker in the years before September 11th. These reports have quoted officials from both the Department of Homeland Security and the Coast Guard as not knowing whether or not Mr. Clarke was correct that some Al Qaeda operatives had entered into the U.S. on LNG tankers docking at the DISTRIGAS facility in Everett. Kenneth Kaiser, the head of the FBI's Boston office, has stated that LNG tankers were not being used to transport terrorists into the country, but Roger Cressey, the nation's former deputy counterterrorism czar claims that Al Qaeda operatives trained in Afghanistan came through Boston Harbor on LNG tankers and that the city became a "logistical hub for the terror network's activities in New England prior to 9/11. Mr. Cressey further indicated that "other intelligence sources" formed the basis for earlier White House concern about LNG tankers serving the DISTRIGAS facility in Everett being used as a conduit for terrorist infiltration into our country. Press reports further indicated that at least one individual who stowed away on the LNG tankers docking at Everett, Abdelgahni Meskini, was later convicted in a 1999 plot to blow up Los Angeles International Airport, though the FBI has stated to the press that Meskini was not considered a terrorist when he entered the country.

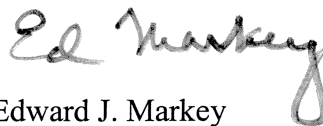
All of these reports raise questions in my mind about the nature and adequacy of anti-terrorism information sharing – both within the federal government and between the federal government and state and local law enforcement officials. These concerns were further confirmed as a result of my questioning of Assistant Secretary for Information Analysis, General Patrick Hughes, during a March 10, 2004 hearing of the Select Committee on Homeland Security's Subcommittee on Intelligence and Counterterrorism. Specifically, in response to my statement that I was concerned about General Hughes' comment that he has to work harder to get access to information collected by the intelligence community, General Hughes said: "At times I have certainly been frustrated by it... It hasn't been dangerous, but I will have to tell you that it is very much a concern of mine."

I would appreciate your assistance in providing answers to the following questions:

1. Based on all of the information available to the U.S. government – both from any FBI investigations or inquiries as well as any information obtained by the intelligence community or from foreign intelligence sources – were LNG tankers entering the Port of Boston ever used by known or suspected terrorists as a means of entering into the United States?
2. If so, why was this information not shared more widely within the federal government, and why were state and local law enforcement authorities never informed of this threat?
3. Has the failure to share historic information about potential use of LNG tankers entering Boston persisted to this day, and if so, why has it not been corrected?
4. What role is the Department playing to coordinate and facilitate information sharing and counter-terrorism efforts with respect to the Everett LNG facility, the LNG tankers serving it, and the Port of Boston as a whole?
5. If you agree with the FBI that no terrorists entered the country through Everett, how do you account for Mr. Meskini? What evidence do you have that he was not associated with any terrorist organizations at the time he stowed away on one of the LNG tankers entering Everett?
6. Press reports have quoted Everett Police Chief Stephen Mazzie as stating that he believes that “dozens” of Algerians arrived in Boston by stowing away on LNG tankers coming from Algeria to Everett, and that when he contacted the Immigration and Naturalization Service about some of these individuals who might have been involved in various petty crimes, he was told that “there was nothing [the INS] could do unless it involved a felony or crime of violence.” Why didn’t the INS or FBI or any other federal law enforcement agency ever take any action to investigate these individuals to determine whether they might pose a threat?
7. In the future, what protections will be put in place to ensure that state and local law enforcement officials are promptly informed whenever the federal government believes that a terrorist cell might be operating in a city or town?

Thank you for your assistance and cooperation in this matter. Should you have any questions about this request, please have your staff contact Mr. Jeff Duncan of my staff at 202-225-2836.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ed Markey". The signature is fluid and cursive, with a large loop at the end.

Edward J. Markey
Member of Congress